

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

)
UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
) Civil No. 1984-104
v.)
)
GOVERNMENT OF THE VIRGIN ISLANDS)
and VIRGIN ISLANDS WASTE MANAGEMENT)
AUTHORITY,)
)
Defendant.)
)

ATTORNEYS:

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For the United States of America,

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St. Thomas, U.S.V.I.
For the United States of America,

Claude Walker, AG
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Kimberly Salisbury, AAG
Ariel Marie Smith-Francois, AAG
St. Thomas, U.S.V.I.
For the Government of the Virgin Islands,

Kelvin Lambert Vidale, Esq.
St. Croix, U.S.V.I.
For the Virgin Islands Waste Management Authority.

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ORDER

GÓMEZ, J.

In March of 1984, the United States filed this action against the Government of the Virgin Islands (the "Virgin Islands"). The complaint alleged violations of the Clean Water Act ("CWA"), 33 U.S.C. § 1251 *et seq.* In September of 1985, the United States and the Virgin Islands entered into a consent decree (the "Original Decree") to resolve the claims in the complaint.

In 1991, the United States moved to hold the Virgin Islands in contempt for violating the Original Decree. Resolution of that motion resulted in a 1995 amended consent decree (the "Amended Decree"), which was entered by this Court on January 19, 1996.

The Amended Decree set forth a variety of initiatives. The overarching objective of these initiatives was

to cause the Virgin Islands to come into and remain in compliance with the Territorial Pollutant Discharge Elimination System ("TPDES") permits (including, without limitation, requirements related to proper operation and maintenance); any renewals of such permits in accordance with the CWA and regulations thereunder; and amendments to such permits in accordance with the CWA and regulations thereunder, and provision of applicable federal and territorial law governing wastewater discharges applicable to . . . waste water treatment plants ("WWTPs").

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ECF No. 556, Exh. 3 at 3.

The Amended Decree currently binds the parties. It has, however, been modified on several occasions. On March 26, 2009, the Court partially terminated the Amended Decree with respect to four WWTPs. On March 16, 2016, the Court partially terminated with respect to three more WWTPs. In addition, on April 22, 2013, the Court entered a stipulated order (the "Stipulated Order"), which was modified on September 19, 2014 ("First Modified Stipulation").

On September 9, 2016, the Court held an evidentiary hearing. At the evidentiary hearing, the United States presented evidence indicating that the number of manhole overflows on St. Thomas has been increasing over the last several years. Additionally, the United States presented evidence that the VIWMA is not implementing EPA-funded projects in a timely fashion.

Thereafter, the Court instructed the parties to submit (1) a plan to reduce the number of manhole overflows; (2) a plan that would enable the VIWMA to implement projects funded through EPA; and (3) an estimate of the funds necessary for these plans. The Court also voiced its intention to have this matter reviewed on a quarterly basis.

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On October 21, 2016, the parties submitted a Second Stipulated Modification of the Stipulated Order ("Second Stipulated Modification"). To address the manhole issues, the parties proposed raising the number of employees allocated to manhole overflow prevention and response from fourteen to seventeen. The additional employees include a Director of Wastewater and two operation and maintenance technicians. The annual cost of these employees would be \$191,349. VIWMA indicated that the funds for these employees has already been budgeted.

To address the implementation of EPA-funded projects, the parties indicated that the First Stipulated Modification required the VIWMA to maintain at least ten full-time employees in the VIWMA's Engineering Division. The VIWMA has failed to comply with this requirement several times throughout the past year. The VIWMA expects to be in full compliance, however, by January 1, 2017. The parties believe the presence of all ten Engineering Division employees will remedy the VIWMA's problems implementing EPA-funded projects. Accordingly, the parties request six additional months to determine whether additional measures are required to address the implementation issues.

The premises considered, it is hereby

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ORDERED that the Second Stipulated Modification of the
Stipulated Order docketed at ECF Number 570 is **APPROVED**; it is
further

ORDERED that an evidentiary hearing in this matter is
SCHEDULED to commence promptly at 9:00 a.m. on Wednesday,
February 22, 2017.

s\

CURTIS V. GÓMEZ
District Judge